

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 12 2008

MOLLY DWYER, ACTING CLERK  
U.S. COURT OF APPEALS

SANDRA OLVERA-CARBAJAL,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-75694

Agency No. A75-713-710

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 26, 2008<sup>\*\*</sup>

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Sandra Olvera-Carbajal, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order upholding an immigration judge's ("IJ") decision denying her application for cancellation of removal. We

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction pursuant to 8 U.S.C. § 1252. We review the agency's continuous physical presence determination for substantial evidence. *See Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004). We review de novo claims of constitutional violations in immigration proceedings. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

Olvera-Carbajal's testimony regarding her date of entry to the United States was materially inconsistent, and substantial evidence therefore supports the adverse credibility finding. *Cf. Vera-Villegas v. INS*, 330 F.3d 1222, 1231-34 (9th Cir. 2003). Moreover, Olvera-Carbajal failed to provide any supporting documentation or witnesses attesting to her presence from 1990 to 1993. *See Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001) (holding that an IJ may require documentary evidence when she either does not believe an applicant or does not know what to believe). The agency therefore properly concluded that Olvera-Carbajal did not meet her burden to establish continuous physical presence. *See* 8 U.S.C. § 1229b(b)(1)(A).

Olvera-Carbajal's argument that the ten-year continuous physical presence requirement violates her due process rights is foreclosed by *Padilla-Padilla v. Gonzales*, 463 F.3d 972, 979 (9th Cir. 2006).

**PETITION FOR REVIEW DENIED.**